

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

LINDA BENAVIDEZ,

Plaintiff,

v.

Case No. 1:15-CV-00922-JB-LF

SANDIA NATIONAL LABATORIES,
VARICK TUCKER (Personally), and
TIMOTHY GARDNER (Personally),

Defendants.

**PLAINTIFF'S REPLY TO DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION
FOR LEAVE TO AMEND COMPLAINT**

The Plaintiff, Linda Benavidez, through her attorneys, Rachel Berenson (Berenson & Associates, P.C.), Rachel Higgins and Mary Higgins, (Higgins Law Offices), and Katie Wray and Kate Girard (Wray & Girard, P.C.), respectfully ask this Court for leave to amend her Complaint, [Doc. 30] pursuant to Rule 15 of the Federal Rules of Civil Procedure.

Legal Standard

The New Mexico Human Rights Act Section 28-1-b(a), Title XII, the Americas with Disability Act, and the Age Discrimination in Employment Act all require that an appeal to Federal or State Court must occur within ninety (90) days of receipt of the letter of dismissal notice of right to sue. Additionally, Plaintiff is attempting to comply with Court's Scheduling Order [Doc. 35] deadline by moving to amend the pleadings and to join additional parties in compliance with Fed. R. Civ. P. 15(a).

Factual Background and Analysis

Defendant states that Plaintiff should wait until the Court issues a decision on

Defendants' pending Motion to Dismiss [Doc.7], and then draft an Amended Complaint that takes into account the Court's rulings.

Plaintiff's deadline to move to amend the pleadings and to join additional parties is April 30, 2016.

The three (3) proposed joining plaintiffs had a deadline to file an appeal from the Human Rights Department or the Employee Equal Opportunity Commission before February 24, 2016 and February 30, 2016, and therefore it is critical that this Court grant Plaintiff's motion for leave to amend to adjoin these additional three (3) plaintiffs.

If the Court does not grant Plaintiff's motion to amend the complaint the three (3) additional Plaintiffs' will be forced to file a new lawsuit and bring Defendant into separate proceedings and waste the Court's valuable time and resources.

Conclusion

Upon the Court's decision on Defendants' motion to dismiss, Plaintiffs will again amend their second amended complaint to properly reflect the court's decision if it alters the ability to bring any of the claims.

Proposed Joining Plaintiffs request this Court to allow them to pursue their right to adjoin and appeal their decisions of the Employee Equal Opportunity Commission and the Human Rights Department.

Plaintiff respectfully request this Court approve Plaintiff's Motion for Leave to Amend Complaint.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of March, 2016, I filed the foregoing pleading electronically through the CM/ECF System, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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